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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/515,928 02/29/00 ELLIOTT

B 24673A

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PM82/0315

EXAMINER

VARNER, S	
ART UNIT	PAPER NUMBER

3635
DATE MAILED:

03/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/515,928

Applicant(s)

ELLIOTT, BERT WHITMORE

Examiner

Steve M Varner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stapleton in view of Blanpied, Bondoc et al., and Philips.

Regarding claim 1, Stapleton shows a laminated shingle. It has an overlay member with tabs with granules and an underlay member attached. (Fig. 1) It does not have tabs of different colors. Blanpied has tabs of different colors. (Fig. 1) It would have been obvious to one of ordinary skill in the art to modify Stapleton with the different color tabs of Blanpied because shingles such as Stapleton are often used in a variety of architectural settings where it would be desirable to have different colors for aesthetic reasons.

Regarding claim 2, Stapleton does not show dark underlay granules. Phillips shows underlay granules. (Fig. 1) It is an obvious design choice to make these granules dark for aesthetic reasons.

Regarding claim 3, Stapleton shows a layer of dark granules on the front surface. (Fig. 1)

Regarding claim 4, Stapleton does not show a layer of dark granules applied to the lower edge and upper edge of the tabs of the overlay member. Phillips shows a layer of dark granules applied to the lower edge and the upper edge of the tabs of the

overly member. (Fig. 1) It would be an obvious design choice to do this randomly for aesthetic reasons.

Regarding claim 5, Stapleton does not show rectangular tabs. Philips shows rectangular tabs. (Fig. 1) It would be obvious to one of ordinary skill in the art to modify Stapleton with the rectangular tabs of Philips for aesthetic reasons.

Regarding claim 6, Stapleton does not show co-linear overlay/underlay members. Philips does show these co-linear. (Fig. 1) It would be obvious to one of ordinary skill in the art to modify Stapleton with the co-linear overlay/underlay members of Philips for aesthetic reasons.

Regarding claim 7, Stapleton does not show beveled edges. Bondoc et al. shows corresponding beveled edges on the overlay and underlay members. It would be obvious to one of ordinary skill in the art to modify Stapleton with the beveled edges of Bondoc et al. for aesthetic reasons.

Regarding claim 8, Stapleton does not show varying tab width. Philips shows varying tab width. (Fig. 1) It would be obvious to one of ordinary skill in the art to modify Stapleton with the varying tab widths of Philips for aesthetic reasons.

Regarding claim 9, see claim 1. It would be an obvious design choice to align the color blends horizontally between the tabs and cut outs to achieve a certain architectural affect.

Regarding claim 10, see claim 1.

Regarding claim 11, see claim 3.

Regarding claim 12, see claim 4.

Regarding claim 13, see claim 5.

Regarding claim 14, see claim 7.

Regarding claim 15, see claim 8.

Regarding claim 16, see claim 6.

Regarding claim 17, see claim 1. It is common knowledge that shingles are used multiply to form a covering for a roof.

Regarding claim 18, see claim 3. Stapleton does not show the overlay cutouts exposing portions of the underlay members. Phillips shows the overlay cutouts exposing the underlay members. (Fig. 1) It would have been obvious to one of ordinary skill in the art to make cutouts for aesthetic reasons.

Regarding claim 19, see claim 3.

Regarding claim 20, see claim 4.

Regarding claim 21, see claim 5.

Regarding claim 22, see claim 6.

Regarding claim 23, see claim 7.

Regarding claim 24, see claim 8.

Regarding claim 25, it is an obvious design choice to vary the colors of the tabs for aesthetic reasons.

Regarding claim 26, it is an obvious design choice to make one of the shingle colors; purple since purple is one of the colors one could choose from.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV

March 9, 2001



Carl D. Friedman
Supervisory Patent Examiner
Group 3600